

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:)
)
JENNIFER NOELLE KAECH) **CASE NO. 14-57038**
)
)
DEBTOR.) **CHAPTER 13**
)
)) **JUDGE PRESTON**

**MOTION OF CREDITORS CHARLES POSTLEWAITE AND CHIPWOOD
MANAGEMENT COMPANY FOR RELIEF FROM STAY**

Pursuant to 11 U.S.C. §362(d) and Rule 4001 of the Federal Rules of Bankruptcy Procedure, Creditors Charles Postlewaite and Chipwood Management Company respectfully request that this Court issue an order granting them relief from the automatic stay herein. Creditors make this motion for the protection of their interest in property.

The reasons for this motion are more fully set forth in the Memorandum in Support and exhibits which are attached hereto and which are fully incorporated as a part hereof.

Respectfully submitted,

/s/ Jeffrey A. Blankenship
Jeffrey A. Blankenship (0014764)
Attorney for Creditors Charles Postlewaite
and Chipwood Management Company
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MEMORANDUM IN SUPPORT

Debtor filed her Chapter 13 petition in the above-captioned case on October 3, 2014. Creditor Charles Postlewaite, by his agent, Chipwood Management Company, is the lessor of certain real property located at 840 Norton Road, Columbus, OH 43228 (hereinafter "the premises") to be used as a residential property. A copy of the lease is attached.

Creditor initiated a forcible entry and detainer action in the Franklin County Municipal Court on September 12, 2014. Debtor obtained a continuance of the initial court hearing and subsequently filed for bankruptcy protection, resulting in a stay of the pending eviction proceedings.

Debtor has proposed in her Chapter 13 Plan, filed October 17, 2014 (Doc. 17) to reject the lease agreement with Creditors but remains in the premises. Debtor has not paid rent since August 2014. Further, the lease between Debtor and Creditors expired on September 30, 2014 and continued on a month-to-month basis subsequent to the expiration date. Additionally, Debtor has failed to pay the water utility bill as required pursuant to the lease agreement executed between the parties and continues to remain in the premises, presumably utilizing the water utility.

11 U.S.C. §362 governs the automatic stay of actions against the Debtor upon the filing of a petition of relief under Title 11. It provides, in pertinent part:

- (d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section such as by terminating, annulling, modifying or conditioning such stay-
 - (1) for cause, including the lack of adequate protection of an interest in property of such party in interest...

In the within case, Creditors suffer from lack of protection of an interest in property. Specifically, as the lessor of the premises, Creditors now receive none of the rent provided for in the lease.

Debtor continues to occupy the premises without assuming the lease, without paying ongoing rent, and without curing past defaults. Creditors' interest in the premises, as lessor, are completely unprotected.

For the foregoing reasons, Creditors respectfully request that this Court grant relief from the automatic stay in the above-captioned matter, for the limited purpose of permitting Creditors to continue the previously filed and stayed forcible entry and detainer state court action to remove Debtor and her property from the property and regain possession of the subject premises.

NOTICE OF FILING OF MOTION FOR RELIEF FROM STAY

Creditors Charles Postlewaite and Chipwood Management Company have filed with the Court a motion for relief from the automatic stay for purposes of continuing the forcible entry and detainer action filed in state court proceedings to remove you and your property from premises currently leased from said creditors. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then on or before twenty-one (21) days from the date of this notice, you or your attorney must:

1. File with the Court a responsive memorandum explaining your position, at:
170 N. High Street, Columbus, Ohio 43215 OR your attorney must file a response using the court's ECF System.
2. If you mail your response to Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above.
3. You must also mail a copy of your responsive memorandum to the undersigned, debtors' attorney, and to all parties, besides yourself, listed on the Certificate of Service provided below.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the Motion for Relief from Stay and may enter an Order granting that relief.

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2014, a copy of the foregoing MOTION FOR RELIEF FROM STAY was served on the following registered ECF participants, electronically through the court's ECF System at the email address registered with the court:

Frank M. Pees, Chapter 13 Trustee, 130 East Wilson Bridge Road, Suite 200, Worthington, OH 43085

United States Trustee, 170 North High Street, Suite 200, Columbus, OH 43215

Michael A. Cox, Esq., Hall, Guerrieri & Cox, 2500 North High Street, Suite 100, Columbus, OH 43202
Jennifer Noelle Kaech, 840 Norton Road, Columbus, OH 43228

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